

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARMEN CHACHA, :
Plaintiff, :
- against - : **ORDER ADOPTING REPORT
AND RECOMMENDATION**
NUEVA ERA FLOWER CORP. and MARIA :
ROMERO, : 23-CV-3367 (AMD) (MMH)
Defendants. :
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ANN M. DONNELLY, United States District Judge:

On January 27, 2023, the plaintiff brought this case against the defendants, her former employers, alleging violations of the Fair Labor Standards Act, the New York Labor Law, the New York State Human Rights Law, and the New York City Human Rights Law. (ECF No. 1.) She filed the complaint in the Southern District of New York, which transferred the case to the Eastern District on April 27, 2023. (ECF No. 10.) On May 15, 2023, the plaintiff filed an amended complaint. (ECF No. 14.)

The plaintiff served Nueva Era Flower Corp. and Maria Romero with a summons and the amended complaint on May 24, 2023 and May 30, 2023, respectively, making their answers due on June 14, 2023 and June 20, 2023. (ECF Nos. 21, 22.) The defendants did not file an answer or otherwise respond to the amended complaint, and have not appeared in this action.

On August 29, 2023, the plaintiff requested a certificate of default (ECF Nos. 24, 25); the Clerk of Court entered the default on September 5, 2023 (ECF No. 26). On November 29, 2023, the plaintiff moved for default judgment. (ECF No. 28.) The Court referred the motion to Magistrate Judge Marcia Henry the next day. (*ECF Order dated Nov. 30, 2023.*)

On July 12, 2024, Judge Henry ordered the parties to appear for a hearing on July 31, 2024 (ECF No. 33) and directed the plaintiff's counsel to be prepared to discuss certain deficiencies in the default judgment motion (*ECF Order dated July 12, 2024*). On July 24, 2024, the plaintiff moved to amend the motion to cure the deficiencies that Judge Henry identified and to adjourn the motion hearing. (ECF No. 34.) Judge Henry deferred a decision on the motion to amend and directed the plaintiff to confirm whether she intended to withdraw her original motion. (*ECF Order dated July 24, 2024*.) On July 29, 2024, the plaintiff asked the Court to withdraw the original motion without prejudice and with leave to renew. (ECF No. 35.)

On July 30, 2024, Judge Henry issued a Report and Recommendation on the original motion for default judgment and the plaintiff's motion to amend. (*ECF Order dated July 30, 2024*.) Judge Henry recommended that the Court deny the plaintiff's default judgment motion as moot, without prejudice, and with leave to renew by September 10, 2024, in light of the plaintiff's request that the Court withdraw the original motion. (*Id.* (citing ECF No. 35).) Judge Henry also recommended that the Court grant the plaintiff's motion to amend the default judgment motion to cure the deficiencies. (*Id.* (citing ECF No. 34).) No objections have been filed to the Report and Recommendation, and the time for doing so has passed.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). To accept those portions of the Report and Recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

I have carefully reviewed Judge Henry's well-reasoned Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation and order that the plaintiff's motion for default judgment is denied as moot without prejudice and with leave to renew. The plaintiff's motion to amend is granted, and the amended default judgment motion is due by September 10, 2024.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
August 14, 2024